

Report to: Cabinet

Date of meeting: 18 July 2023

By: Director of Communities, Economy and Transport

Title: Exceat Bridge Compulsory Purchase Order, Bridge Scheme and Side Roads Order

Purpose: To seek authority for the acquisition of land and rights needed for the construction of the new Exceat Bridge and associated landscaping and environmental mitigation measures (the Project) including the making of a Compulsory Purchase Order, Side Roads Order and Bridge Scheme, the acquisition of land by voluntary agreement with landowners and the exercise of statutory powers to enter and survey land in connection with the Project.

RECOMMENDATIONS:

Cabinet is recommended to:

1) Agree to resolve that the Council makes:-

a) a Compulsory Purchase Order (“CPO”) under sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and the Acquisition of Land Act 1981 for the acquisition of freehold interests (both residential and commercial), and any other interests as may arise, which are not already owned by the Council and new rights within the areas edged red and shaded pink and blue shown on the plan at Appendix 1;

b) a Side Roads Order (“SRO”) under sections 14 and 125 of the Highways Act 1980 and all other necessary powers to:-

- (i) improve, raise, lower, stop up, divert or otherwise alter existing highways which cross or enter the route of the replacement Exceat Bridge or will otherwise be affected by the construction of the replacement Exceat Bridge or as required by the Exceat Bridge Scheme;**
- (ii) construct new lengths of highway for purposes connected with the alterations as referred to in (i) above and with the delivery of the Exceat Bridge Scheme; and**
- (iii) stop up private means of access and provide replacement or new means of access all as shown on the plan at Appendix 2;**

c) a Bridge Scheme under section 106 of the Highways Act 1980 to enable the construction of the replacement Exceat Bridge over the River Cuckmere being a navigable waterway. The Bridge Scheme plans are appended at Appendix 3.

2) Agree that the Director of Communities, Economy and Transport be authorised to:-

a) continue to take all necessary steps to secure the making, confirmation and implementation of the CPO, SRO and Bridge Scheme (together “the Orders”) including land referencing, serving any requisitions for information, preparing all necessary documentation (including the Orders and the Statement of Reasons), submission of the Orders to the Secretary of State for confirmation, the publication and service of all notices and preparing for and presentation of the Council’s case at any Public Inquiry;

b) acquire all interests in land within the areas of the CPO either compulsorily or by agreement;

- c) deal with objections to the Orders including agreeing terms for the withdrawal of objections in order to secure the delivery of the Exceat Bridge Scheme;**
- d) negotiate and enter into agreements or undertakings with persons with any interest in the land affected by or relating to the Orders;**
- e) remove from the CPO any plot (or interest therein) no longer required to be acquired compulsorily and to amend the interests scheduled in the CPO (if so advised) and to alter the nature of the proposed acquisition from an acquisition of existing property interests to an acquisition of new rights (if so advised);**
- f) make any minor amendments as are considered necessary to the Orders arising as a result of negotiations with affected persons or further design work to enable the delivery of the Exceat Bridge Scheme;**
- g) make any amendments to the Statement of Reasons a redacted version of which is annexed at Appendix 4 to this report as are considered necessary prior to its submission to the Secretary of State;**
- h) confirm the CPO if granted power to do so by the Secretary of State;**
- i) exercise the compulsory purchase powers authorised by the CPO by way of General Vesting Declarations and/or by service of Notices to Treat and Notices of Entry; and**
- j) take all steps to secure the settlement of compensation arising from the implementation of the Orders including referral to the Upper Tribunal (Lands Chamber).**
- k) Agree that the Director of Communities, Economy and Transport be authorised to approve on behalf of the Council the exercise of statutory powers under section 172 of the Housing and Planning Act 2016 and any other legislation to enter and survey any land where required in connection with the Project.**

1 Background

1.1 ESCC as local highway authority is progressing the Exceat Bridge project (the Project) which will involve the realignment and replacement of the existing single lane bridge at the A259 public highway over the river Cuckmere with a new two-lane bridge with a footway, including reprofiling of the riverbanks and road verges.

1.2 The Project will include provision of traffic calming measures between the Seven Sisters Country Park and Seaford, alterations to the access, and provision of a shared surface to the east of Cuckmere Inn and provision of a habitat creation area to restore agricultural land back into wetland on the east bank of Cuckmere Valley.

1.3 The existing bridge at Exceat is a one way (single lane) bridge originally constructed around 1839 for horse and car traffic. Although its superstructure was replaced with a composite steel and concrete deck in 1976 it is now in need of significant repair to correct a number of structural defects. In addition, the narrow width of the existing bridge operates as a bottleneck creating significant tailbacks of traffic during peak periods of each working day, at weekends and during holiday periods. This Project will solve the existing problems with congestion, safety and pollution and will contribute to the public benefit in providing a safe crossing of the river Cuckmere at Exceat and improve the east-west connectivity in East Sussex.

1.4 ESCC has been actively seeking to secure the land required to deliver the Project. The Council remains committed to securing the land by voluntary negotiations with the relevant landowners wherever possible. However, the Council's legal and property consultants have advised that a Compulsory Purchase Order should be made under the statutory powers contained in the Highways Act 1980 in case those negotiations prove unsuccessful.

1.5 The Project will require the stopping up and/or diversion of part of two public footpaths and the stopping up of a short section of the A259 Eastbourne Road which will no longer be required for

highway purposes. It is proposed that a Side Roads Order be made by Cabinet under the Highways Act 1980 as the same time as the making of the CPO.

1.6 As the Project will involve construction of the bridge over the river Cuckmere which is a navigable water, a Bridge Scheme is required to authorise construction of the bridge over the river as part of the highway

2 Financial Appraisal

2.1 The property and acquisition costs associated with the CPO would be paid for out of the overall Project budget. This would also apply to the costs of any public highway. The Council may be required to acquire more land than is actually needed, due to the landowners affected by the CPO exercising statutory powers, eg under section 8 of the Compulsory Purchase Act 1965. In that event, surplus land would be available for sale after completion of the Project and the proceeds for such sales would be available to be used for funding future capital schemes.

2.2 The cost of the Project is currently estimated at £10,600,000 including land/property acquisition costs. The funding is available from a combination of Council funding and funding from the UK Government's Levelling Up Fund. The funding from the UK Government's Levelling Up Fund (£7,957,517) must be spent by the end of March 2025 and, if it is not spent by that date, it is possible the Council may not receive this funding. It is therefore of critical importance that the land required for the Project is secured in a timely manner to allow the Project to be delivered.

2.3 The Council has acquired some interests already. This includes the purchase of the freehold property known as The Boathouse, Exceat which was acquired as a result of a blight notice. It may be that additional interests will be acquired in advance of confirmation of the CPO in which case compensation shall be paid on the basis of the statutory compensation code in the same way as interests acquired by compulsory purchase.

3. Supporting information

3.1 ESCC submitted an application for detailed planning permission to South Downs National Park Authority (SDNPA) under planning reference SDNPA/21/02342/FUL. SDNPA as local planning authority resolved on 8 December 2022 to grant planning permission subject to negotiation of an agreement under section 106 of the Town and County Planning Act 1990.

3.2 ESCC is in the process of finalising the terms of the Section 106 Agreement which will require signature by both ESCC and a third party landowner. Commercial terms have been agreed in principle with the landowner who is currently reviewing the detailed requirements of SDNPA acting in their capacity as local planning authority Planning Authority.

3.3 The CPO is intended to include the freehold and other interests required for the Project which are not already owned by the Council and new rights within the areas edged red and shaded pink and blue shown on the plan at Appendix 1. Once the CPO is confirmed by the Secretary for State for Transport and, following service of various notices, this will enable the Council to take possession of the land needed for the Project notwithstanding that titles to the various legal interested may not have been obtained at that time. Whilst it is proposed that the Council proceed with making the Orders the Council will, at the same time, be actively pursuing the negotiations to acquire the land by voluntary agreement wherever possible. ESCC has appointed external surveyors, Avison Young to lead in the negotiations with all third party owners.

3.4 The implementation of the Project will require the Side Roads Order (SRO) which is being progressed in parallel with the CPO and relates to the roads shown on the plan in Appendix 2. The SRO, subject to confirmation by the Secretary of State for Transport, will empower the Council to stop up existing side roads and private means of access affected by the Project, to improve existing highway and to create new lengths of highway in connection with the construction of the new Exceat Bridge.

3.5 Appendix 3 contains the plans for the Bridge Scheme to be made Bridge Scheme under section 106 of the Highways Act 1980 to enable the construction of the replacement Exceat Bridge over the River Cuckmere.

3.6 Further matters of consideration in making the CPO, Side Roads Order and the Bridge Scheme are contained in the draft Statement of Reasons contained in Appendix 4. This has been redacted to remove the names and details of the individual landowners.

3.7 Prior to commencement of any construction works for the new bridge, the Council will need to carry out various surveys of land. The Council has already negotiated various licences for this work. Where it is not possible to secure access by voluntary agreement with landowners, the Council has powers to enter and survey under section 172 of the Housing and Planning Act 2016.

4 Legal Implications

4.1 The Council can make a CPO under the Highways Act 1980 and the Acquisition of Land Act 1981 and the SRO and Bridge Scheme under the Highways Act 1980. Legal advice has been obtained from specialist CPO lawyers that this legislation will apply.

4.2 Should objections to the CPO be received that cannot be resolved. It is anticipated that a Public Inquiry will be held. Throughout the CPO process it is possible and indeed expected by the Secretary of State that negotiations can proceed to acquire the property interests by agreement.

5. Conclusion and recommendations

5.1 It is considered that there is a compelling case for the compulsory purchase of the land and rights required for the Project and, alongside the CPO, for the making of the SRO and Bridge Scheme.

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LOCAL MEMBERS

All

BACKGROUND DOCUMENTS

Appendix 1 – CPO Plan

Appendix 2 – SRO Plan

Appendix 3 – Bridge Scheme Plans 1-3

Appendix 4 – Draft Statement of Reasons